

ELEVENTH AMENDED AGREEMENT FOR WATER SUPPLY

by and between

SONOMA COUNTY WATER AGENCY
CITY OF COTATI
CITY OF PETALUMA
CITY OF ROHNERT PARK
CITY OF SANTA ROSA
CITY OF SONOMA
FORESTVILLE WATER DISTRICT
NORTH MARIN WATER DISTRICT
VALLEY OF THE MOON WATER DISTRICT

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ELEVENTH AMENDED AGREEMENT FOR WATER SUPPLY

THIS AGREEMENT is made on January 26, 2001 by and between the following public entities:

SONOMA COUNTY WATER AGENCY, herein called "Agency",
CITY OF COTATI, herein called "Cotati",
CITY OF PETALUMA, herein called "Petaluma",
CITY OF ROHNERT PARK, herein called "Rohnert Park",
CITY OF SANTA ROSA, herein called "Santa Rosa",
CITY OF SONOMA, herein called "Sonoma",
FORESTVILLE WATER DISTRICT, herein called "Forestville"
NORTH MARIN WATER DISTRICT, herein called "North Marin"
and VALLEY OF THE MOON WATER DISTRICT, herein called "Valley
of the Moon"

The parties hereto hereby mutually covenant and agree as follows:

PART 1 - GENERAL

1.1 Definitions

When used herein, unless otherwise distinctly expressed or manifestly incompatible with the intent of this Agreement, the terms:

(a) "acre feet" and "AF" mean one acre-foot or 325,850 gallons of water. "AFA" means an acre-foot per annum.

(b) "aqueduct facilities" means the pipelines of the Forestville, Intertie, Petaluma, Santa Rosa and Sonoma Aqueducts, an additional pipeline to be constructed generally paralleling the Intertie Aqueduct, a pipeline to be constructed generally paralleling the south part of the Petaluma Aqueduct from the Intertie Aqueduct to Kastania Reservoir and a pipeline to be constructed or acquired generally paralleling the Sonoma Aqueduct.

(c) "capital cost" means the total funds expended for capital improvements, major replacements, or portions thereof, as context requires, including engineering, right of way, financial fees, interest during construction, and materials, construction and replacement costs.

1
2 (d) "common facilities" means all Transmission System facilities
3 except storage facilities and aqueduct facilities, but including
4 additional facility aqueduct capacity constructed specifically to
5 make the deliveries that have been authorized by section 3.12,
6 and including the Potter Valley Project or portion thereof
7 acquired pursuant to section 2.4.

3
4 (e) "corporate territory" means the boundary from time to time
5 existent of a city, agency, district or other governmental entity
6 with powers to accept and distribute water.

2
3 (f) "additional facilities" means the additional facilities that
4 must be constructed or acquired after the completion of the
5 Russian River-Cotati Intertie in order for the Agency to be able
6 to satisfy its delivery obligations under sections 3.1 and 3.2,
7 and to make the deliveries authorized pursuant to section 3.12,
8 including, but not limited to: an aqueduct generally paralleling
9 the Intertie Aqueduct; an aqueduct generally paralleling the
0 south part of the Petaluma Aqueduct from the Intertie Aqueduct to
1 Kastania Reservoir; an aqueduct generally paralleling the Sonoma
2 Aqueduct; an aqueduct connecting the Kawana Springs and Ralphine
3 reservoirs; transmission line pumping plants necessary to
4 regulate flows to storage facilities; 55.5 million gallons of
5 reservoir storage; 56.9 mgd of Russian River water production
6 capacity; water-treatment facilities; and emergency wells.

7
8 (g) "fiscal year" (abbreviated FY) means the period from July 1
9 through the following June 30.

0
1 (h) "Forestville Aqueduct" means the existing pipeline from the
2 Santa Rosa Aqueduct to Forestville, the existing booster pumping
3 plant, the existing 300,000-gallon reservoir, and all other
4 facilities financed with the proceeds of the sale of Series E of
5 the Agency's 1955 Bonds.

6
7 (i) "Intertie Aqueduct" means the existing 48-inch inside
8 diameter pipeline extending from the Mirabel Park intake
9 facilities on the Russian River to the Petaluma Aqueduct in the
0 vicinity of Cotati with appurtenances thereto including turnouts
1 to serve Forestville, Santa Rosa, Cotati and Rohnert Park. The
2 Intertie Aqueduct consists of three reaches: "reach 1" from the
3 Mirabel intake facilities to Forestville, "reach 2" from
4 Forestville to the extension of Hall Road and "reach 3" from the
5 extension of Hall Road to the junction with the Petaluma Aqueduct
6 at Cotati. Reach 3 is further divided into "reach 3a" from the
7 extension of Hall Road to Occidental Road, "reach 3b" from
8 Occidental Road to the Cotati reservoirs and "reach 3c" from the
9 Cotati reservoirs to the Petaluma Aqueduct.

1 (j) "Marin Municipal" means the Marin Municipal Water District.

2
3 (k) "mgd" means a million gallons of water per day.

4
5 (l) "1955 Bonds" means the Agency's 1955 Water Transmission
6 System Bonds authorized by the voters of the Agency (then named
7 Sonoma County Flood Control and Water Conservation District) at a
8 special election held May 10, 1955, in the amount of \$8,500,000.

9
0 (m) "operation and maintenance costs" means the Agency's costs
1 of operating the Transmission System including its power costs,
2 costs of maintaining the System in a good state of repair,
3 payments made to the owner of the Potter Valley Project to insure
4 the continued operation of the Project provided they are annually
5 approved by the Water Advisory Committee, regardless of whether
6 or not such payments result in the ultimate transfer of title to
7 all or part of the Project to the Agency, and costs of
8 administering the System and furnishing the water supplies
9 pursuant to this agreement.

0
1 (n) "Ordinance No. 1" means Ordinance No. 1 of the Agency
2 adopted on December 28, 1970, providing for the issuance of the
3 Revenue Bonds, together with any other ordinances of the Agency
4 supplemental thereto or amendatory thereof.

5
6 (o) "other Agency customers" means the Agency, the County of
7 Sonoma, Larkfield Water Company, Lawndale Mutual Water Company,
8 Kenwood Village Water Company, Penngrove Water Company, City of
9 Sebastopol, Windsor Water District and Occidental Community
0 Services District.

1
2 (p) "Petaluma Aqueduct" means the existing pipeline from the
3 Santa Rosa Aqueduct to Petaluma, the second six-million gallon
4 reservoir at the Ralphine Tank farm and all other facilities
5 financed with the proceeds of the sale of Series D and G of the
6 Agency's 1955 Bonds. The "south part" of the Petaluma Aqueduct
7 means the portion thereof south of the junction thereof with the
8 Intertie Aqueduct and the "north part" means the portion north of
9 said junction.

0
1 (q) "Potter Valley Project" means Federal Energy Regulatory
2 Commission Project No. 77.

3
4 (r) "regular customers" of the Agency means the water
5 contractors and the other Agency customers.

6
7 (s) "remaining facilities" means those portions of the Russian
8 River-Cotati Intertie authorized to be constructed or acquired by
9 the Tenth Amended Agreement For Water Supply and Construction of
0 the Russian River-Cotati Intertie Project, dated November 14,

1 1997, which have not been constructed or acquired on the
2 effective date of this agreement, including, but not limited to;
3 20 mgd of standby pump and collector capacity; the Kawana Springs
4 Reservoir No. 1, Kawana pumping plant and associated Kawana
5 reservoir pipeline, including capacity in the City of Santa
6 Rosa's West Transmission Main; and the Oakmont pipeline.
7

3 (t) "Revenue Bond obligations" means the payment of principal of
4 and interest on the Revenue Bonds and all other obligations and
5 covenants of the Agency with respect to the Revenue Bonds
6 contained in Ordinance No. 1 and in the Subordinated Bond
7 Ordinance, including specifically any covenant to establish and
8 maintain rates and charges to provide revenue coverage in excess
9 of a specified amount as established by an ordinance of the
0 Agency supplemental to or amendatory of Ordinance No. 1 or by the
1 Subordinated Bond Ordinance or an ordinance or resolution of the
2 Agency supplemental to or amendatory of the Subordinated Bond
3 Ordinance.
4

0 (u) "Revenue Bonds" means all series or issues of the Agency's
1 1971 Water Revenue Bonds issued pursuant to Ordinance No. 1 to
2 finance the Russian River-Cotati Intertie, and all series or
3 issues of the Agency's Subordinated Revenue Bonds subordinated to
4 the Agency's 1971 Water Revenue Bonds and issued pursuant to the
5 Subordinated Bond Ordinance.
6

7 (v) "Russian River Conservation Charge" means the charge
8 established in subsection (a) of section 4.17 of this agreement.
9

0 (w) "Russian River-Cotati Intertie" means the Intertie Aqueduct
1 and associated intake facilities on the Russian River, including
2 the diversion dam, intake works, infiltration ponds, collectors,
3 water treatment facilities, groundwater wells having a minimum
4 production capacity of 7 mgd, a Russian River water quality early
5 warning system, pumps, telemetry equipment and related buildings
6 and appurtenances, and associated storage facilities.
7

3 (x) "Russian River Customers" means all customers within Sonoma
4 County who have or in the future will have contracts with the
5 Agency to divert or redivert water directly from the Russian
6 River or Dry Creek without the use of the Transmission System.
7

3 (y) "Russian River Project" means Coyote Valley Dam/Lake
4 Mendocino on the Russian River and Warm Springs Dam/Lake Sonoma
5 on Dry Creek
6

7 (z) "Russian River Projects Charge" means the charge established
8 in subsection (b) of section 4.17.
9

0 (aa) "Russian River Projects Fund" means the fund established

1 by the Agency to pay or partially pay for: (1) carrying out the
2 Agency's Coyote Valley Dam Project and Warm Springs Dam Project
3 channel-stabilization works obligations to the United States
4 Government and the State of California under Agency Board of
5 Directors Resolutions No. 6847 adopted May 24, 1955, No. 7798
6 adopted September 27, 1955, No. DR00793-1 adopted September 25,
7 1961 and Resolution No. DR68485 adopted December 23, 1980; (2)
8 securing and defending appropriative water rights which are
9 necessary for the realization of the full benefits of the Coyote
0 Valley Dam and Warm Springs Dam Projects; (3) the Agency's share
1 of the United States Government's investment, operation and
2 maintenance, and major replacement costs associated with the
3 Coyote Valley Dam and Warm Springs Dam Projects; (4) the
4 acquisition of all or part of the Potter Valley Project or
5 contributions made to the Project owner to insure the continued
6 operation of all or part of the Project; and (5) fishery
7 mitigation and enhancement projects undertaken by the Agency in
8 the Russian River and Eel River and their tributaries.

9
0 (bb) "Santa Rosa Aqueduct" means the existing two collectors,
1 intake works, pumping plant and appurtenances at Wohler on the
2 Russian River, the existing pipeline therefrom to the Ralphine
3 Tank farm, the first six-million gallon reservoir at the Ralphine
4 Tank farm and all other facilities financed with the proceeds of
5 the sale of Series A, B and C of the Agency's 1955 Bonds.

6
7 (cc) "Sonoma Aqueduct" means the existing pipeline from the
8 Ralphine reservoirs to Sonoma, the existing pumping plants, three
9 existing reservoirs totaling six and one-half million gallons,
0 and all other facilities financed with the proceeds of the sale
1 of Series F of the Agency's 1955 Bonds. The Sonoma Aqueduct
2 consists of two reaches; "reach 1" from the Ralphine reservoirs
3 to Pythian Road and "reach 2" from Pythian Road to the Sonoma
4 reservoirs.

5
6 (dd) "storage facilities" means all reservoirs on the
7 Transmission System, the pipeline connecting the Kawana Springs
8 Reservoirs with the Intertie Aqueduct; the pipeline connecting
9 the Kawana Springs and Ralphine reservoirs; the pipeline
0 connecting the Kastania reservoir with the Petaluma Aqueduct and
1 transmission line pumping plants necessary to regulate flows to
2 storage facilities.

3
4 (ee) "Subordinated Bond Ordinance" means an ordinance of the
5 Agency adopted on April 20, 1982, providing for the issuance of
6 the Subordinated Revenue Bonds of the Agency, together with any
7 other ordinances or resolutions of the Agency supplemental
8 thereto or amendatory thereof.

9
0 (ff) "Subordinated Revenue Bonds" means all series or issues of

revenue bonds of the Agency subordinated to the Agency's 1971 Water Revenue Bonds and issued pursuant to the Subordinated Bond Ordinance, together with any other ordinances or resolutions of the Agency supplemental thereto or amendatory thereof.

(gg) "surplus water" has the meaning defined in subsection (a) of section 3.4 of this agreement.

(hh) "Transmission System" means the Agency's existing water production, storage, treatment and transmission facilities, including but not limited to the Santa Rosa, Petaluma, Sonoma and Forestville Aqueducts, the Russian River-Cotati Intertie, emergency wells, the Warm Springs Hydroelectric Project, future water production, storage, treatment and transmission facilities to be constructed pursuant to this agreement, and a new aqueduct to be constructed generally paralleling the portion of the Petaluma Aqueduct that extends from the Ely Pumping Plant to Kastania Reservoir.

(ii) "Trustee" means the Trustee or Trustees for the Agency and the holders of the Revenue Bonds appointed pursuant to Ordinance No. 1 and the Subordinated Bond Ordinance and any successor Trustee or Trustees.

(jj) "Warm Springs Dam Project" means that certain project authorized for the Russian River, Dry Creek, California, by the Flood Control Act of 1961, enacted October 23, 1962 (Public Law 874, 87th Congress).

(kk) "Warm Springs Hydroelectric Project" means Federal Energy Regulatory Commission Project No. 3351.

(11) "Water Advisory Committee" means the advisory committee established in Part 5 of this agreement.

(mm) "water contractors" means all the parties signatory to this agreement except the Agency.

1.2 Recital of Purposes

Among the purposes of this agreement are to provide a water supply or a supplemental water supply for each of the water contractors and to provide for payment to the Agency for water delivered hereunder sufficient to enable it to pay the capital costs of major replacements and additions to the Transmission System and to meet its obligations on its 1955 Bonds and Revenue Bonds and its expenses of operating and maintaining the Transmission System.

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1.4 Previous Agreement Superseded

1.5 Enforcement

Nothing in this agreement shall preclude any water contractor from seeking unilateral redress under the law from the Agency, or any other party, agency customer or entity. Any owner or holder of Revenue Bonds may also enforce any provision of this agreement inuring to the benefit of the holders of the Revenue Bonds.

Except as hereafter provided, this agreement may be amended only with the consent of all the parties hereto. If such amendment reduces the revenues to be received by the Agency or otherwise impairs the ability of the Agency to meet its Revenue Bond obligations, then it shall be amended only with the consent

1 of the Trustee. The Trustee shall give such consent if the
2 Trustee determines that, following such amendment, the water
3 contractors will be obligated under this agreement to make
4 payments to the Agency sufficient to enable the Agency to pay
5 principal of and interest on the Revenue Bonds and to meet all
6 its other Revenue Bond obligations. In making such
7 determination, the Trustee may rely upon such certificates or
8 opinions from qualified attorneys, engineers or accountants as
9 the Trustee may deem necessary and obtain from the Agency. Any
10 annual delivery limit contained in section 3.1 may be modified by
11 written agreement between the Agency and the water contractor to
12 which such annual delivery limit applies without the consent of
13 the other parties to this agreement for the purpose of conforming
14 such annual delivery limits to a general plan which is applicable
15 to the service area of such water contractor. Copies of any such
16 written agreement shall be provided to all the parties to this
17 agreement.

18 **1.7 Pledge of Revenues**

19 Each party hereto acknowledges that anything herein to the
20 contrary notwithstanding, all sums paid to the Agency pursuant to
21 this agreement, except the payments and credits set forth in
22 section 4.8 and payments of the Russian River Conservation Charge
23 and Russian River Projects Charge made pursuant to sections 4.15
24 and 4.17, are "Revenues of the Water System" of the Agency as
25 defined in Ordinance No. 1 and the Subordinated Bond Ordinance
26 and are pledged to the payment of the Agency's Revenue Bond
27 obligations. All said sums shall be received, allocated and paid
28 out pursuant to Ordinance No. 1 and the Subordinated Bond
29 Ordinance. The Agency will, at least annually, so long as
30 Revenue Bonds are outstanding and no Subordinated Revenue Bonds
31 are outstanding, request the Trustee under Ordinance No. 1 to
32 withdraw from the Agency Fund established pursuant to section
33 5.02 of Ordinance No. 1 all monies in said Agency Fund and the
34 Agency shall cause said monies to be held in a special account by
35 the County Treasurer of Sonoma County to be accounted for,
36 allocated and paid out as set forth in this agreement. The
37 Agency will, at least annually, so long as Subordinated Revenue
38 Bonds are outstanding, request the Trustee under the Subordinated
39 Bond Ordinance to withdraw from the Subordinated Agency Fund
40 established pursuant to Article V of the Subordinated Bond
41 Ordinance all monies in said Subordinated Agency Fund and the
42 Agency shall cause said monies to be held in a special account by
43 the County Treasurer of Sonoma County to be accounted for,
44 allocated and paid out as set forth in this agreement. Included
45 in revenues subject to Ordinance No. 1 and to the Subordinated
46 Bond Ordinance are or may be funds for the payment of general
47 obligation bonds of the Agency or for the payment of any other
48 obligations of the Agency for which the Agency is authorized to

1 levy a tax. The water contractors understand that the failure of
2 sufficient monies to be deposited in either of said special
3 accounts may require the Agency to levy taxes to pay such general
4 obligation bond costs and other such obligations. All references
5 in this agreement to the accounting for, allocating, paying, and
6 crediting of monies are subject to the priority imposed by
7 Ordinance No. 1 and by the Subordinated Bond Ordinance on all of
8 said revenues.

9
10 The parties hereto recognize that the Revenue Bonds are to
11 be paid from revenues, as provided herein, and that it is the
12 intention of the parties that the charges set forth herein will
13 be sufficient to pay the Revenue Bonds and to meet the Revenue
14 Bond obligations not met from other sources of funds. The water
15 contractors, therefore, agree to pay promptly such charges
16 notwithstanding any deficiency in the quantity or quality of
17 water to which they or any of them would be entitled pursuant to
18 this agreement. The provisions of this agreement are made for
19 the benefit of the owners and holders from time to time of the
20 Revenue Bonds and may be enforced by or on behalf of any such
21 owner or holder.

22 **1.8 Books, Records and Accounts**

23 The Agency shall keep or cause to be kept, proper books,
24 records and accounts in which complete and accurate entries shall
25 be made of all monies received from all entities, including the
26 Agency's regular customers, and of the money in the special
27 account held by the County Treasurer of Sonoma County referred to
28 in section 1.7, and of the basis for and application of said
29 money. Said books, records and accounts will be available during
30 normal business hours for inspection by the water contractors or
31 their authorized representatives. The Agency will transmit to
32 the water contractors two reports each year of the receipts and
33 expenditures of the Transmission System. The first report will
34 be issued no later than February 1 and shall be accompanied by a
35 preliminary budget for the following fiscal year, and will show
36 expenditures for the first half of the fiscal year together with
37 estimated year-end expenditures and estimated expenditures for
38 the following fiscal year. The second report will be issued after
39 the end of each fiscal year and will contain a budgetary
40 accounting of Transmission System expenditures, revenues and
41 balances for the fiscal year. Each month the Agency shall supply
42 each water contractor with a summary showing the amount of water
43 delivered during the preceding month to each regular customer and
44 each customer receiving surplus water.

45 **1.9 Water Contractors' Duty to Provide Funds**

46 Each water contractor shall use any and all means legally

1 available to it (including, without limitation, the enactment and
2 maintenance in effect of legislation establishing fees, tolls,
3 rates and charges pertaining to the operation of its water
4 distribution system) so as to produce monies sufficient in amount
5 to meet the monetary obligations incurred by it pursuant to this
6 agreement and to enable it to maintain its water distribution
7 system in good working order.

3 4 5 **1.10 Severability**

1 If any one or more sections, provisions, promises or
2 conditions of this agreement is declared void or voidable for any
3 reason by a final judgement or order of a court of competent
4 jurisdiction, it is hereby declared to be the intention of each
5 party and agreed that each and all of the other sections,
6 provisions, promises and conditions of this agreement shall be
7 and remain in full force and effect.

3 4 5 **1.11 Third Party Beneficiaries**

1 Except for the holders of the 1955 Bonds, the Revenue Bonds,
2 and the Subordinated Revenue Bonds, no third party beneficiaries
3 are intended or established by this agreement.

4 5 6 **1.12 Water Conservation Requirements**

7 The Water Contractors, and with respect to other Agency
8 customers, the Agency, shall as a minimum implement or use their
9 best efforts to secure the implementation of urban water
10 conservation best management practices as the same may be
11 established by the California Urban Water Council, or shall
12 implement or use their best efforts to secure the implementation
13 of alternative water conservation measures that secure at least
14 the same level of water savings. The Water Contractors, and with
15 respect to other Agency customers, the Agency, shall implement or
16 use their best efforts to secure the implementation of any water
17 conservation requirements that may be added as terms or
18 conditions of the Agency's appropriative water rights permits or
19 licenses, or with which the Agency must comply under compulsion
20 of regulation or law. Should the Water Advisory Committee
21 determine and so notify any water contractor that its efforts to
22 achieve compliance with the water conservation practices required
23 by this section are unsatisfactory, then such contractor shall
24 bring its water conservation program into compliance within six
25 months after such notice, or within such additional time as may
26 be granted by the Water Advisory committee. Should such water
27 contractor's noncompliance as determined by the Water Advisory
28 Committee continue for six months after such notice of
29 noncompliance, or beyond such additional time as may be granted
30 by the Water Advisory Committee, then the water contractor shall

1 thereafter pay a surcharge on all water delivered by the Agency
2 pursuant to this agreement equal to ten percent of the Operation
3 and Maintenance Charge until the Water Advisory Committee
4 determines that such water contractor is in compliance. The
5 proceeds of any surcharge paid pursuant to this section shall be
6 deposited and paid out in the same manner as the proceeds of the
7 Operation and Maintenance Charge.
8

1 **PART 2 - ACQUISITION, CONSTRUCTION, OPERATION AND MAINTENANCE**
2

3 **2.1 Financing Additions to the Existing Transmission System**
4

5 The Agency will, subject to all applicable limitations
6 specified in this agreement and all applicable legal and
7 regulatory limitations, finance additions to the existing
8 Transmission System with cash available pursuant to sections 3.6,
9 4.2, 4.10, 4.11, 4.16, payments made by Marin Municipal pursuant
0 to section 4.15, payments made by North Marin pursuant to section
1 4.8 and 4.13, any state, federal or other grants which may become
2 available, and, if the Agency decides to issue new series or
3 issues of Revenue Bonds, proceeds from the sale of Revenue
4 Bonds.
5

6 **2.2 Scheduling of Additions and Replacements to the Existing**
7 **Transmission System**
8

9 Subject to the availability of sufficient cash or proceeds
0 from the sale of Revenue Bonds (if the Agency decides to issue
1 new series or issues of Revenue Bonds) and any state, federal or
2 other grants which may become available, and subject to all
3 applicable limitations specified in this agreement, the Agency
4 will (1) construct or acquire additions to the existing
5 Transmission System sufficient to meet the delivery entitlements
6 set forth in section 3.1 and 3.2 at such times as may be
7 necessary to enable it to reliably deliver to each of the water
8 contractors such entitlements at the time that each contractor
9 shall require the same and to make the deliveries authorized
0 pursuant to section 3.12, provided, however, that no contract
1 shall be awarded by the Agency for the construction of the
2 aqueduct generally paralleling the Sonoma Aqueduct without the
3 prior written consent of Valley of the Moon and Sonoma; (2)
4 construct additional Russian River water production facilities
5 (up to a total capacity of 168.9 mgd) so that the total water
6 production capacity available at all times is not less than the
7 average daily delivery to the regular customers and Marin
8 Municipal (excluding surplus water and water in excess of
9 entitlements) during the month of highest historical use plus 20
0 mgd; (3) construct emergency wells with capacities which are from
1 time to time determined by the Water Advisory Committee; (4)
2 construct additional facilities (up to a total capacity of 174.3
3 million gallons) to the extent necessary to maintain a quantity
4 of water in storage equal to 1.5 times the average daily delivery
5 to the regular customers except North Marin during the month of
6 highest historical use; and (5) replace existing facilities and
7 construct additional facilities, related buildings and
8 appurtenances as necessary to insure the reliable and efficient
9 operation of the Transmission System and to insure that the
0 quality of the water delivered complies with all applicable state

1 and federal water quality requirements.

2
3 The time within which the Agency shall be obligated to
4 construct such additions and replacements to the existing
5 Transmission System shall be extended, however, as a result of
6 any delays caused by fire, earthquake, other acts of God, acts of
7 the public enemy, riots, insurrections, governmental regulations
8 on the sale or transportation of materials or supplies, strikes
9 affecting construction of such additions and replacements or
0 transportation of materials or supplies in connection therewith,
1 any State or Federal environmental quality regulations or
2 restrictions, shortages and/or delay in the obtaining of
3 materials, shortages of or allocations of fuel and other sources
4 of energy, litigation resulting in court orders restraining the
5 construction of such additions and replacements, inability of
6 Agency for any reason to deliver the Revenue Bonds or any series
7 thereof, or any other causes beyond the control of Agency or any
8 contractor constructing any part of such additions and
9 replacements.
0

1 **2.3 Further Modifications to Transmission System**

2
3 (a) With the approval of the Water Advisory Committee and
4 subject to the availability of sufficient funds, the Agency may
5 undertake studies, and prepare technical reports, financial
6 plans, and environmental documents for water transmission system
7 facilities in addition to those authorized to be constructed by
8 this agreement. If such activities are undertaken pursuant to
9 this paragraph, the cost thereof shall be considered to be costs
0 of common facilities and shall be paid from funds available
1 pursuant to subsection (c) of Section 4.2, or from the proceeds
2 of Revenue Bonds and payments made by North Marin pursuant to
3 Section 4.8. If the cost is paid from the proceeds of Revenue
4 Bonds and payments made by North Marin, the cost shall be
5 allocated as provided in subsection (b), paragraph 9 of Section
6 4.7 and Section 4.13.
7

8 (b) Except for the facilities described in section 2.2, the
9 Agency will not construct or acquire additions to the
0 Transmission System that would increase the charges payable by,
1 or diminish or impair the water available to, any of the water
2 contractors except on such terms and conditions as may be agreed
3 upon in writing by the Agency and each water contractor who would
4 be required to make any additional payment by reason of such
5 construction or whose water supply might be diminished or
6 impaired by such construction. If such addition is a booster
7 pump or any other device, method, or system that would enlarge or
8 increase the capacity of any one customer to the detriment of
9 other users or would enlarge or increase the ratio of water taken
0 from the Transmission System by one user in relation to the other

1 users, then such addition or alteration shall not be made by
2 Agency except by amendment to this agreement. If a question
3 arises as to whether an addition or alteration to the
4 Transmission System requires an amendment of this agreement
5 pursuant to this section, then such question shall be submitted
6 to the Water Advisory Committee and its decision shall be
7 conclusive.

3 4 5 **2.4 Potter Valley Project**

1 All or part of the Potter Valley Project may be acquired
2 upon a determination by the Board of Directors of the Agency that
3 such acquisition is necessary to insure the Agency's continued
4 ability to make the water deliveries authorized by this
5 Agreement, provided, however, that no part nor all of the Potter
6 Valley Project shall be acquired without the prior approval of
7 the Water Advisory Committee. The Agency shall not be liable to
8 any of its customers for any damage resulting from any Agency
9 decision regarding the acquisition or non-acquisition of any part
0 or all of the Potter Valley Project.

1 2 **2.5 Water Conservation Measures**

3 The Agency may undertake or fund any cost effective water
4 conservation measure that will reduce water demands on the
5 Transmission System and that has been approved by the Water
6 Advisory Committee.
7

8 9 **2.6 Operation and Maintenance**

1 The Agency shall operate and maintain the Transmission
2 System in a good state of repair.
3
4

PART 3 - WATER SUPPLY

3.1 Delivery Entitlements of Water Contractors

Subject to Section 3.5, the Agency shall deliver to each water contractor at the points of delivery hereinafter set forth such quantities of water as the water contractor shall from time to time require at such rates of flow as are necessary to meet its peak day's demand, subject to the following:

(a) The Agency shall not be obligated to deliver water in excess of the following:

| Water Contractor | Average During Month | During Any Fiscal Yr. |
|--|----------------------|---------------------------|
| Santa Rosa | | (excluding surplus water) |
| From Reach 1 and 2 of the Intertie Aqueduct | 40.0 mgd | |
| From the Santa Rosa Aqueduct | 40.0 mgd | |
| From the Sonoma Aqueduct | 4.0 mgd | |
| Maximum combined total from all aqueducts | 56.6 mgd | 29,100 AF |
| North Marin | | |
| From Petaluma Aqueduct | 19.9 mgd | 14,100 AF |
| Petaluma | | |
| From Petaluma Aqueduct | 21.8 mgd | 13,400 AF |
| Rohnert Park | | |
| From Petaluma Aqueduct or Reach 3 of Intertie Aqueduct | 15.0 mgd | 7,500 AF |
| Valley of the Moon | | |
| From Sonoma Aqueduct | 8.5 mgd | 3,200 AF |
| Sonoma | | |
| From Sonoma Aqueduct | 6.3 mgd | 3,000 AF |
| Cotati | | |
| From Petaluma Aqueduct or Reach 3 of Intertie Aqueduct | 3.8 mgd | 1,520 AF |

1 Forestville

1.5 mgd

2
3
4 (b) North Marin shall not take delivery of water at an
5 instantaneous delivery rate greater than its average delivery
6 rate for such day, if such instantaneous delivery rate would
7 increase the Agency's cost of electrical energy. North Marin
8 shall not take delivery of water at a rate of more than 19.9 mgd
9 during more than 14 days of any month, nor at a rate of more than
0 20.9 mgd during any day of any month. Irrespective of its
1 delivery entitlement, North Marin shall nevertheless have the
2 right to a flow rate of 14.8 mgd in the Petaluma Aqueduct.
3

4 (c) No water contractor shall take delivery of water at an
5 average rate during any month that is greater than 2.0 times the
6 average rate of delivery to that contractor during the preceding
7 12 months. The Agency also shall adopt this requirement as a
8 service rule applicable to other customers. However, if any
9 regular customer was during the preceding 12 months subject to a
0 curtailment in deliveries pursuant to section 3.5, then the limit
1 prescribed by this subsection shall be 2.0 times the average rate
2 of delivery that such customer would have received in the absence
3 of such curtailment. This rule shall not apply to water
4 contractors who utilize local sources of supply to reduce demand
5 on the Transmission System during the peak summer period of June
6 1 through September 30, and whose average production rate for
7 said period from all of the contractor's local sources is equal
8 to at least 2.0 times the average production rate of all of that
9 contractor's local sources during the eight months immediately
0 preceeding the peak summer period.
1

2 (d) No water contractor shall take delivery of water during any
3 month at an average rate that is greater than 1.3 times the
4 average rate of delivery to that contractor during the peak month
5 of the prior three calendar years without the written consent of
6 the Agency. The Agency also shall adopt this requirement as a
7 service rule applicable to other customers. Such consent shall
8 be given by the Agency if and only if sufficient transmission
9 capacity exists to make such increased deliveries and the
0 deliveries to the other water contractors required to be made
1 pursuant to this section. However, if any water contractor was
2 during the preceding three calendar years subject to a
3 curtailment in deliveries pursuant to section 3.5, then the limit
4 prescribed by this subsection shall be 1.3 times the average rate
5 of delivery that such contractor would have received during the
6 peak month of the prior three calendar years in the absence of
7 such curtailment.
8
9

0 **3.2 Conditions on Other Agency Customer Deliveries**

1 The Agency may furnish water from the Transmission System to
2 other Agency customers subject, however, to the following
3 conditions:
4

5 (a) The total quantity of water delivered to all the other
6 Agency customers shall not exceed an average of 2.7 million
7 gallons per day during any month.
8

9 (b) The Agency will not enter into contracts to furnish water to
0 any other Agency customer except itself or the County of Sonoma
1 for use on land within two miles of the corporate territory of a
2 water contractor except with the prior written consent of such
3 water contractor, which consent will be subject to the condition
4 that the Agency will cease delivering water to such customer
5 whenever a water contractor is willing and able to furnish water
6 to such customer.
7

8 (c) The Agency shall not deliver more than an average of 0.5
9 million gallons per day during any month from the south part of
0 the Petaluma Aqueduct to other Agency customers.
1

2 (d) The Agency shall not sell water from the Transmission System
3 except as expressly authorized by this Agreement.
4

5 **3.3 Deliveries in Excess of Entitlements**

6 (a) No regular customer may take delivery of water in excess of
7 its average day maximum month delivery entitlement set forth in
8 sections 3.1 or 3.2, except upon the following conditions:
9

0 first, that such excess delivery does not impair or delay
1 the delivery to any other regular customer of its
2 entitlements; and
3

4 second, that the regular customer taking the excess delivery
5 is then proceeding in good faith, with plans and funding to
6 develop a reliable water supply, sufficient to supply its
7 needs in excess of its entitlements set forth in section 3.1
8 or 3.2; and
9

0 third, that either
1

2 (1) all the water contractors approve such excess
3 delivery; or
4

5 (2) such excess delivery is made during a period when
6 another water contractor is not using its full
7 entitlements, such excess delivery does not exceed the
8 unused amounts of said contractor's entitlements, and
9 said contractor has notified the Agency in writing of
0

1 its consent to said delivery.

2
3 (b) The parties to this Agreement recognize that the Agency will
4 have increased costs, in amounts that will be difficult to
5 determine, if any water contractor takes water in violation of
6 subsection (b), (c) or (d) of section 3.1 or subdivision (a) of
7 this section. Accordingly, if any water contractor takes
8 delivery of water from the Transmission System in violation of
9 subsection (b), (c) or (d) of section 3.1 or subdivision (a) of
0 this section, then it shall pay Agency, in addition to all other
1 applicable charges, liquidated damages in an amount equal to 25
2 percent of the applicable Operation and Maintenance Charge times
3 the amount of water taken in violation of these provisions. The
4 assessment of liquidated damages pursuant to this section for a
5 violation by a contractor of subsection (b), (c) or (d) of
6 section 3.1 may be waived by the Agency upon a showing by the
7 contractor that the taking of delivery of water in violation
8 thereof resulted from an act of God or other unforeseeable
9 circumstances over which the contractor had no control. The
0 existence of this liquidated-damage provision shall not limit or
1 restrict the Agency from physically limiting the quantity of
2 water taken to the amounts authorized by this Agreement or from
3 pursuing all other available legal and equitable remedies
4 applicable to such violations. The proceeds of any liquidated
5 damages assessed pursuant to this subsection shall be deposited
6 and paid out in the same manner as the proceeds of the Operation
7 and Maintenance Charge

3 **3.4 Surplus Water**

4 (a) Surplus water is water that from time to time may be
5 available for delivery from the Transmission System in excess of
6 the amounts required to meet the Agency's contractual obligations
7 and the requirements of all the Agency's regular customers for
8 uses other than those described in subdivision (b) of this
9 section.

0 (b) Surplus water may be used only for the following purposes:

1 (1) irrigation of land used for commercial production
2 of food or fibre.

3 (2) replenishment of surface water supply reservoirs
4 or recreational lakes, including but not limited to
5 Ralphine, Spring and Stafford Lakes.

6 (3) replenishment of groundwater basins

7 (c) The Agency will deliver surplus water only from separate
8 metered turnouts on the Transmission System or the North Marin
9

1 Aqueduct.

2
3 (d) The water contractors shall have first rights of refusal on
4 deliveries of surplus water.
5

6 **3.5 Shortage of Water and Apportionment**

7
8 The Agency shall use its best efforts to obtain, perfect and
9 maintain appropriative water rights in amounts sufficient to be
0 able to make the water deliveries provided for in this Agreement.

1 In its operation of the Russian River Project, the Agency shall
2 use all reasonable means to prevent a deficiency in the quantity
3 of water that is available to the Agency for diversion and
4 rediversion under the Agency's water rights. However, nothing in
5 the preceding two sentences shall be construed to limit the
6 Agency's discretion to take appropriate actions to resolve any
7 issue that may arise under the federal Endangered Species Act or
8 any other federal or state law affecting the Agency's water
9 rights or operation of the Russian River Project. If by reason
0 of drought, other causes beyond the control of the Agency, or any
1 change in the amounts of water imported by the Potter Valley
2 Project into the Russian River watershed (whether or not such
3 change is caused by any action or inaction of the Agency) a
4 deficiency does occur, the Agency shall not be liable to any of
5 its customers for any damage arising therefrom. In the event of
6 such a deficiency, the Agency first shall cease all deliveries of
7 surplus water to other than the water contractors; second, shall
8 cease deliveries of all surplus water; third, shall cease
9 deliveries to regular customers in excess of their entitlements;
0 and fourth, shall apportion the available supply of water as
1 follows:
2

3 first, deliver to each of its regular customers, not in
4 excess of the respective entitlements set forth in Section 3.1
5 and Section 3.2, authorize Agency's Russian River customers to
6 divert or redivert not in excess of the amounts for which those
7 customers have contracted to purchase from the Agency, and
8 deliver to Marin Municipal not in excess of the amounts, if any,
9 that are required to be delivered pursuant to the Third Amended
0 Offpeak Water Supply Agreement dated January 25, 1996, the
1 Amended Agreement For The Sale Of Water Between The Sonoma County
2 Water Agency and the Marin Municipal Water District dated January
3 25, 1996, amendments to these agreements that have been approved
4 by the Water Advisory Committee, or subsequent agreements between
5 the Agency and Marin Municipal that have been approved by the
6 Water Advisory Committee, the quantities of water required by
7 each such customer for human consumption, sanitation and fire
8 protection as determined by the Agency after taking into
9 consideration all other sources of potable water then available
0 to said customer;
1

1
2 second, to the extent additional water is available to the
3 Agency, deliver such water to Agency's regular customers,
4 authorize Agency's Russian River customers to divert or divert
5 such water, in proportion to the respective entitlements set
6 forth in sections 3.1 and 3.2 and the agreements between the
7 Agency and its Russian River customers, and deliver water to
8 Marin Municipal pursuant to and to the extent required by the
9 Third Amended Offpeak Water Supply Agreement dated January 25,
10 1996, the Amended Agreement For The Sale of Water Between The
11 Sonoma County Water Agency and the Marin Municipal Water District
12 dated January 25, 1996, amendments to these agreements that have
13 been approved by the Water Advisory Committee, or subsequent
14 agreements between the Agency and Marin Municipal that have been
15 approved by the Water Advisory Committee;

16 provided, however, that no customer shall receive under
17 these paragraphs "first" and "second" a total quantity of water
18 in excess of its reasonable requirements or its said entitlement
19 or contracted amount, whichever is less.

20 In the event of a temporary impairment of the capacity of
21 the Transmission System by reason of natural disaster, sabotage
22 or other causes beyond the control of the Agency, the Agency
23 shall not be liable to any of its customers for any damage
24 arising therefrom.

25 In such event the Agency shall:

26 first, deliver to each of its regular customers the quantity
27 of water, not in excess of the respective entitlements set forth
28 in sections 3.1 and 3.2, required by it for human consumption,
29 sanitation and fire protection as determined by the Agency after
30 taking into consideration all other sources of potable water then
31 available to said customer;

32 second, to the extent additional Transmission System
33 capacity is available to the Agency, deliver a quantity of water
34 to the regular customers in proportion to their respective
35 entitlements set forth in of section 3.1 and section 3.2
36 provided, however, that no regular customer shall receive under
37 these paragraphs "first" and "second" a total quantity of water
38 in excess of its reasonable requirements or its said entitlement,
39 whichever is less;

40 third, to the extent additional Transmission System capacity
41 is available, deliver water to regular customers in excess of
42 their entitlements pursuant to subdivision (a) of section 3.3;

43 fourth, to the extent additional Transmission System

1 capacity is available, deliver water to Marin Municipal not in
2 excess of the delivery limitations in section 3.12;
3

4 fifth, to the extent additional Transmission System capacity
5 is available, deliver surplus water to the water contractors;
6

7 sixth, to the extent additional Transmission System capacity
8 is available, deliver surplus water to other Agency customers.
9

0 However, deliveries to Marin Municipal shall not be reduced
1 or curtailed because of inadequate capacity in the new aqueduct
2 to be constructed generally paralleling the portion of the
3

Petaluma Aqueduct that extends from the Ely Pumping Plant to Kastania Reservoir.

3.6 Fire Fighting Service

Anything herein to the contrary notwithstanding, the Agency may furnish water for fire fighting from hydrants or standpipes on the Transmission System provided such service within two miles of the corporate territory of a water contractor may be furnished only if and during the period of time said water contractor consents thereto in writing. The Agency shall set fees sufficient to recover the full cost of installing and maintaining, and supplying water to, fire hydrants. All revenue from such fees shall be treated the same as money received from the Operation and Maintenance Charge and shall be deposited and paid out as set forth in Section 1.7 and subdivision (b) of Section 4.1. Agency shall adopt service rules limiting hydrant water usage to fire suppression, fire training and limited temporary uses such as providing metered construction water.

3.7 Quality of Water

(a) The Agency warrants that it will use its best efforts to insure that all water delivered hereunder shall be of such purity and quality required to meet minimum standards for human domestic consumption from time to time established by the state and federal governments. The Agency shall not be liable to any of its customers for any damage arising from the quality of water that it delivers under this agreement, except for damages based on any breach of the warranty described in the preceding sentence.

(b) The payment obligations of the water contractors set forth in Part 4 shall not be affected in any manner by the quality of the water delivered by the Agency hereunder.

3.8 Points of Delivery

All water furnished to each water contractor hereunder shall be delivered at the discharge flange of meters at turnouts owned and maintained by the Agency. Turnouts in addition to those now existing shall be constructed from time to time at such locations as shall be agreed upon by the Agency and the water contractors involved. Water delivered to Petaluma and North Marin at the McNear meter station shall be delivered at a hydraulic gradient of not less than 175 feet mean sea level. Turnouts installed for regular customers shall be not less than 8 inches in diameter. Turnout installation charges shall be determined from time to time by resolution of the Board of Directors of the Agency and shall be payable by the customer prior to turnout installation by

1 Agency.

2
3 **3.9 Risk of Loss and Responsibility**
4

5 Title and risk of loss with respect to all water delivered
6 hereunder shall pass from the Agency to the water contractor at
7 the point of delivery thereof as set forth in section 3.8. The
8 Agency shall not be responsible for the control, transmission,
9 distribution, handling or use of water beyond the point of
0 delivery thereof. Each water contractor shall be responsible for
1 installing and maintaining any device it deems necessary to
2 reduce or regulate the pressure under which the water may be
3 delivered hereunder.
4

5 **3.10 Place of Use of Water Delivered to North Marin**
6

7 (a) North Marin may exchange water delivered under this Agreement
8 for an equal amount of water delivered to it by Marin Municipal.
9

0 (b) Except as provided in subdivision (a) of this section, North
1 Marin shall not permit any water delivered under this Agreement
2 to be used outside of its own distribution system service areas.
3

4 **3.11 Measurement**
5

6 All water delivered by the Agency from the Transmission
7 System shall be measured by meters installed and maintained by
8 the Agency. The Agency shall test the accuracy of each meter not
9 less frequently than annually and provide each water contractor
0 with a report of such test. Each water contractor shall have the
1 right at any time and at its expense to make additional tests of
2 any meter. If a meter is found to be reading 2 percent or more
3 fast or slow, it shall immediately be repaired to bring it within
4 2 percent accuracy or be replaced by the Agency.
5

6 **3.12 Marin Municipal Water Deliveries**
7

8 The Agency, pursuant to the Third Amended Offpeak Water
9 Supply Agreement dated January 25, 1996 and the Amended Agreement
0 For The Sale Of Water Between The Sonoma County Water Agency and
1 the Marin Municipal Water dated January 25, 1996, amendments to
2 these agreements that have been approved by the Water Advisory
3 Committee, or subsequent agreements between the Agency and Marin
4 Municipal that have been approved by the Water Advisory
5 Committee, may deliver water to Marin Municipal when and to the
6 extent that the Transmission System has capacity in excess of
7 that required by Agency to supply its regular customers the
8 entitlements set forth in sections 3.1 and 3.2. However,
9 deliveries to Marin Municipal shall not be reduced or curtailed
0 because of inadequate capacity in the new aqueduct to be

1 constructed generally paralleling the portion of the Petaluma
2 Aqueduct that extends from the Ely Pumping Plant to Kastania
3 Reservoir.
4

5 The maximum delivery rate to Marin Municipal between May 1
6 and October 31 shall not exceed 12.8 mgd. The total quantity of
7 water delivered to Marin Municipal in any fiscal year shall not
8 exceed 14,300 acre feet. Deliveries of water to Marin Municipal
9 shall be made either through a separately metered turnout or
0 through North Marin's metered turnout(s). If water is delivered
1 through North Marin's metered turnout(s), then North Marin shall
2 maintain in good repair and calibration metered turnouts at
3 points of delivery from its system into Marin Municipal's system
4 and shall read such meters on or about the end of each month and
5 provide to Agency an accounting of water delivered during the
6 preceding month to Marin Municipal. In making such accounting,
7 North Marin shall deduct from the total of water delivered to
8 Marin Municipal any exchange water as provided in section 3.10 of
9 this agreement and any water produced by North Marin and
0 delivered to Marin Municipal.
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PART 4 - CHARGES AND PAYMENTS

4.1 Separate Charges and Funds

(a) On or before April 30 preceding each fiscal year during which any of the following charges are payable, the Agency will establish the amount of the following charges for the ensuing fiscal year:

- (1) the Operation and Maintenance Charge,
- (2) the Santa Rosa Aqueduct Capital Charge,
- (3) the Forestville Aqueduct Capital Charge,
- (4) the Sonoma Aqueduct Capital Charge,
- (5) the Petaluma Aqueduct Capital Charge,
- (6) the Aqueduct Facilities Revenue Bonds Charge,
- (7) the Storage Facilities Revenue Bonds Charge,
- (8) the Common Facilities Revenue Bonds Charge.
- (9) the North Marin Revenue Bonds Charge.

(b) All monies received in payment of said charges shall be received, allocated and paid out pursuant to Ordinance No. 1 and to the Subordinated Bond Ordinance. The Agency agrees to maintain separate funds into which all money received by it from the Agency Fund under Ordinance No. 1 and the Subordinated Agency Fund under the Subordinated Bond Ordinance shall be deposited and from which disbursement shall be made as herein provided. All interest earned by each of said funds shall be credited to said fund.

(c) In establishing each of said charges, the Agency shall assume that the quantity of water (other than surplus water) to be delivered from each aqueduct of the Transmission System shall be the same as the amount of water delivered from said aqueduct during the twelve months preceding such establishment, or the average annual amount of water delivered during the preceding 36 months, whichever is less.

If because of drought or other water-supply reduction, state or federal order, or other similar condition, the Agency anticipates that any such quantities will not be predictive of future usage, the Agency may use a different amount with the prior approval of the Water Advisory Committee.

4.2 Operation and Maintenance Charge

(a) The Operation and Maintenance Charge shall be a uniform annual charge per acre foot and shall be paid by all regular customers for all water delivered from the Transmission System.

1
2
3 (b) The aggregate amount of money to be received by the Agency
4 from the Operation and Maintenance Charge for each fiscal year
5 shall be sufficient to produce water sale revenues to cover the
6 Agency's estimate of its operation and maintenance costs for such
7 fiscal year, including a reasonable allowance for usual
8 contingencies and errors in estimation, to accumulate and
9 maintain a prudent reserve in an amount determined from time to
0 time by the Water Advisory Committee, and to produce additional
1 revenues in amounts determined from time to time by the Water
2 Advisory Committee to pay the capital costs of common facilities
3 and storage facilities pursuant to subdivision (c) of this
4 section.
5

6 (c) All money received by the Agency in payment of the Operation
7 and Maintenance Charge shall be deposited and paid out as set
8 forth in section 1.7, and subdivision (b) of section 4.1. After
9 making the payments required by section 1.7, Ordinance No. 1 and
0 the Subordinated Bond Ordinance, remaining money received from
1 the Operation and Maintenance Charge may be used to pay the
2 Agency's operation and maintenance expenses, and to fund a
3 prudent reserve for those expenses. Money received from the
4 Operation and Maintenance Charge in excess of that necessary for
5 operation and maintenance expenses and to maintain a prudent
6 reserve may from time to time be disbursed as provided in section
7 4.9 to pay capital costs of common facilities and storage
8 facilities. If money received from the Operation and Maintenance
9 Charge is appropriated for expenditure for storage facilities,
0 the funds shall be transferred to the storage facilities Revenue
1 Bonds fund referred to in subsection (d) of section 4.11. At the
2 time of the transfer, an amount shall also be transferred to
3 North Marin's account established pursuant to subsection (c) of
4 section 4.8, which amount shall bear the same proportion to the
5 amount transferred to the storage facilities Revenue Bonds fund
6 that the total amount payable by North Marin for the Operation
7 and Maintenance Charge in the prior fiscal year bears to the
8 total operation and maintenance revenue received by the Agency
9 from sources other than North Marin pursuant to sections 3.6,
0 4.2, 4.14, 4.15 and 4.16 during the prior fiscal year.
1

2 **4.3 Santa Rosa Aqueduct Capital Charge**

3

4 (a) The Santa Rosa Aqueduct Capital Charge shall be a uniform
5 annual charge per acre foot and shall be paid by all the Agency's
6 regular customers for all water delivered directly from the Santa
7 Rosa Aqueduct except for surplus water and except as provided in
8 section 4.16. For the purpose of this section, the first 3.5 mgd
9 of water delivered to Santa Rosa from reach 1 of the Sonoma
0 Aqueduct shall be deemed to have been delivered from the Santa
1

1 Rosa Aqueduct.

2
3 (b) The aggregate amount to be received by the Agency from the
4 Santa Rosa Aqueduct Capital Charge for each fiscal year shall be
5 sufficient to produce water sale revenues to pay the principal
6 and interest payments for the ensuing fiscal year on Series A, B
7 and C of the Agency's 1955 Bonds.

3
4 (c) Subject to the provisions of section 1.7, no disbursement
5 shall be made from the Santa Rosa Aqueduct capital fund except
6 for the payment of said principal and interest so long as
7 payments for such principal and interest are due.

3
4 (d) If at the end of any fiscal year the balance in the Santa
5 Rosa Aqueduct capital fund is insufficient to meet said principal
6 and interest payments for the ensuing fiscal year, Santa Rosa
7 shall, before August 1, pay to the Agency as an additional charge
8 for water delivered an amount equal to such deficit.

9
0 (e) If, after all payments on Series A, B and C of the Agency's
1 1955 Bonds have been made, Agency decides to issue a new series
2 or issue of Revenue Bonds to finance major replacements of
3 portions or all of the Santa Rosa Aqueduct, or with the approval
4 of the Water Advisory Committee the Agency decides to levy a
5 Santa Rosa Aqueduct Capital Bonds Charge to produce revenue to
6 finance major replacements of portions or all of the Santa Rosa
7 Aqueduct, then the aggregate amount to be received by the Agency
8 from the Santa Rosa Aqueduct Capital Charge for each fiscal year
9 shall be sufficient to produce water sale revenues to pay the
0 principal and interest payments for the ensuing fiscal year on
1 said series or issue of Revenue Bonds and to produce additional
2 revenues in amounts determined from time to time by the Water
3 Advisory Committee to pay the capital costs of aqueduct
4 facilities.

5 **4.4 Forestville Aqueduct Capital Charge**

7
8 (a) The Forestville Aqueduct Capital Charge shall be a uniform
9 annual charge per acre foot and shall be paid by all the Agency's
0 regular customers for all water delivered directly from the
1 Forestville Aqueduct except for surplus water and except as
2 provided in section 4.16. For the purpose of this section, all
3 water delivered to Forestville pursuant to this agreement shall
4 be deemed to have been delivered from the Forestville Aqueduct.

5
6 (b) The aggregate amount to be received by the Agency from the
7 Forestville Aqueduct Capital Charge for each fiscal year shall be
8 sufficient to produce water sale revenues to pay the principal
9 and interest payments for the ensuing fiscal year on Series E of
0 the Agency's 1955 Bonds.

1
2 (c) Subject to the provisions of section 1.7, no disbursement
3 shall be made from the Forestville Aqueduct capital fund except
4 for the payment of said principal and interest so long as
5 payments for such principal and interest are due.
6

7
8 (d) If at the end of any fiscal year the balance in the
9 Forestville Aqueduct capital fund is insufficient to meet said
0 principal and interest payments for the ensuing fiscal year,
1 Forestville shall, before August 1, pay to the Agency as an
2 additional charge for water delivered an amount equal to such
3 deficit.
4

5 (e) If, after all payments on Series E of the Agency's 1955
6 Bonds have been made, Agency decides to issue a new series or
7 issue of Revenue Bonds to finance major replacements of portions
8 or all of the Forestville Aqueduct, or with the approval of the
9 Water Advisory Committee the Agency decides to levy a Forestville
0 Aqueduct Capital Bonds Charge to produce revenue to finance major
1 replacements of portions or all of the Forestville Aqueduct, then
2 the aggregate amount to be received by the Agency from the
3 Forestville Aqueduct Capital Charge for each fiscal year shall be
4 sufficient to produce water sale revenues to pay the principal
5 and interest payments for the ensuing fiscal year on said series
6 or issue of Revenue Bonds and to produce additional revenues in
7 amounts determined from time to time by the Water Advisory
8 Committee to pay the capital costs of aqueduct facilities.
9

0 **4.5 Sonoma Aqueduct Capital Charge**

1
2 (a) The Sonoma Aqueduct Capital Charge shall be a uniform annual
3 charge per acre foot and shall be paid by all the Agency's
4 regular customers for all water delivered directly from the
5 Sonoma Aqueduct except for surplus water and except as provided
6 in subdivision (a) of section 4.3 and in section 4.16.
7

8 (b) The aggregate amount to be received by the Agency from the
9 Sonoma Aqueduct Capital Charge for each fiscal year shall be
0 sufficient to produce water sale revenues to pay the principal
1 and interest payments for the ensuing fiscal year on Series F of
2 the Agency's 1955 Bonds.
3

4 (c) Subject to the provisions of section 1.7, no disbursement
5 shall be made from the Sonoma Aqueduct capital fund except for
6 the payment of said principal and interest so long as payments
7 for such principal and interest are due.
8

9 (d) If at the end of any fiscal year the balance in the Sonoma
0 Aqueduct capital fund is insufficient to meet said principal and

1 interest payments for the ensuing fiscal year, an additional
2 charge for water delivered in an amount equal to such deficit
3 shall be paid to the Agency before August 1 by Sonoma and Valley
4 of the Moon. The share of such additional charge to be paid by
5 each of said water contractors shall be proportionate to the
5 difference between the base share component and the sum of
7 payments made by said water contractor during said fiscal year.
3 The base share component allocated to a water contractor is the
9 number obtained by multiplying the said total principal and
0 interest payment for said fiscal year by said water contractor's
1 monthly entitlement set forth in subdivision (a) of section 3.1
2 and by dividing by the total of said monthly entitlements for all
3 water contractors being served from the Sonoma Aqueduct.

4
5 (e) If, after all payments on Series F of the Agency's 1955
5 Bonds have been made, Agency decides to issue a new series or
7 issue of Revenue Bonds to finance major replacements of portions
3 or all of the Sonoma Aqueduct, or with the approval of the Water
9 Advisory Committee the Agency decides to levy a Sonoma Aqueduct
0 Capital Charge to produce revenue to finance major replacements
1 of portions or all of the Sonoma Aqueduct, then the aggregate
2 amount to be received by the Agency from the Sonoma Aqueduct
3 Capital Charge for each fiscal year shall be sufficient to
4 produce water sale revenues to pay the principal and interest
5 payments for the ensuing fiscal year on said series or issue of
5 Revenue Bonds and to produce additional revenues in amounts
7 determined from time to time by the Water Advisory Committee to
3 pay the capital costs of aqueduct facilities.

9 0 **4.6 Petaluma Aqueduct Capital Charge**

1
2 (a) The Petaluma Aqueduct Capital Charge shall be a uniform
3 annual charge per acre foot and shall be paid by North Marin,
4 Petaluma, Cotati and Rohnert Park for all water delivered under
5 this agreement except for surplus water and except as provided in
5 section 4.16, irrespective of the aqueduct on which a turnout is
7 located, and shall be paid by all other regular customers for all
3 water delivered from the Petaluma Aqueduct.

9
0 (b) The aggregate amount to be received by the Agency from the
1 Petaluma Aqueduct Capital Charge for each fiscal year shall be
2 sufficient to produce water sale revenues to pay the principal
3 and interest payments for the ensuing fiscal year on Series D and
4 G of the Agency's 1955 Bonds.

5
5 (c) Subject to the provisions of section 1.7, no disbursement
7 shall be made from the Petaluma Aqueduct capital fund except for
3 the payment of said principal and interest so long as payments
9 for such principal and interest are due.
0

(d) If at the end of any fiscal year, the balance in the Petaluma Aqueduct capital fund is insufficient to meet said principal and interest payments for the ensuing fiscal year, an additional charge for water delivered in an amount equal to such deficit shall be paid to the Agency before August 1 by Petaluma, North Marin, Cotati and Rohnert Park. The share of such additional charge to be paid by each of said water contractors shall be proportionate to the difference between the base share component and the sum of payments made by said water contractor during said fiscal year. The base share component allocated to a water contractor is the number obtained by multiplying said total principal and interest payment for said fiscal year by said water contractor's monthly entitlement set forth in subdivision (a) of section 3.1 and by dividing by the total of all said monthly entitlements for all water contractors being served from the Petaluma Aqueduct.

(e) If, after all payments on Series D and G of the Agency's 1955 Bonds have been made, Agency decides to issue a new series or issue of Revenue Bonds to finance or major replacements of portions or all of the Petaluma Aqueduct, or with the approval of the Water Advisory Committee the Agency decides to levy a Petaluma Aqueduct Capital Charge to produce revenue to finance major replacements of portions or all of the Petaluma Aqueduct, then the aggregate amount to be received by the Agency from the Petaluma Aqueduct Capital Charge for each fiscal year shall be sufficient to produce water sale revenues to pay the principal and interest payments for the ensuing fiscal year on said series or issue of Revenue Bonds and to produce additional revenues in amounts determined from time to time by the Water Advisory Committee to pay the capital costs of aqueduct facilities.

4.7 Allocation of Capital Costs to North Marin

(a) The capital costs of the Intertie Aqueduct, remaining facilities, and the Potter Valley Project, or the portion thereof that is to be acquired pursuant to Section 2.4 hereof, shall be allocated to North Marin in proportion to the following ratios:

| | <u>Facility</u> | <u>Ratio</u> |
|----|----------------------------|---------------------|
| 1. | Intertie Aqueduct, Reach 1 | 11.2/70.4 |
| 2. | Intertie Aqueduct, Reach 2 | 11.2/68.9 |
| 3. | Intertie Aqueduct, Reach 3 | 11.2/58.9 |
| 4. | Storage facilities | -0- |
| 5. | Common facilities | 11.2/90.4 |

(b) The portions of the capital costs of the additional facilities allocated to North Marin are as follows:

| <u>Facility</u> | <u>Ratio</u> |
|---|--------------|
| 1. 2nd pipeline, generally paralleling Intertie Aqueduct reach 1 | 8.7/55.8 |
| 2. 2nd pipeline, generally paralleling Intertie Aqueduct reach 2 | 8.7/55.8 |
| 3. 2nd pipeline, generally paralleling Intertie Aqueduct reach 3a | 8.7/55.8 |
| 4. 2nd pipeline, generally paralleling Intertie Pipeline reach 3b and 3c | 8.7/42.4 |
| 5. 2nd pipeline, generally paralleling Petaluma Aqueduct from its junction with Intertie Aqueduct to Kastania Reservoir | 5.1/38.8 |
| 6. 2nd pipeline, generally paralleling Sonoma Aqueduct | -0- |
| 7. Storage Facilities | -0- |
| 8. Russian River Water Production Facilities | 8.7/55.8 |
| 9. All Common Facilities except Russian River Water Production Facilities, but including the Potter Valley Project | 19.9/146.2 |

4.8 Remaining Facility, Additional Facility and Replacement Facility Capital Cost Payments by North Marin

The portion of the capital costs of the facilities allocated to North Marin pursuant to section 4.7 shall be recovered by the Agency as follows:

(a) Each time the Agency decides to issue further series or issues of Revenue Bonds to finance the capital costs of constructing or acquiring any remaining facilities, additional facilities, or replacement facilities, or acquiring all or part of the Potter Valley Project, the Agency shall, prior to initiating the procedures for the issuance of such Revenue Bonds, notify North Marin of the Agency's estimate of the total cost of the remaining facilities, replacement facilities, additional facilities, or Potter Valley Project acquisition proposed to be

1 financed by said series or issues of Revenue Bonds and of North
2 Marin's portion of the cost allocated in accordance with section
3 4.7. North Marin shall have the right, at its election, to pay
4 North Marin's portion, or any part or parts thereof, of the cost
5 of such remaining facilities, replacement facilities, additional
6 facilities, or Potter Valley Project acquisition in cash,
7 provided, however, that North Marin shall make its election on or
8 before such date as the Agency shall specify, which date will
9 give the Agency sufficient time to determine the amount of
0 Revenue Bonds to be sold, but shall not be earlier than 30 days
1 after said notification. If North Marin elects to make a cash
2 payment, it shall do so on the date the Revenue Bonds are sold or
3 on such later date as the Agency may agree upon and which will
4 nevertheless enable the Agency to meet its obligations for said
5 construction or acquisition. If North Marin elects to make a
6 cash payment, the amount payable shall exclude interest during
7 construction and financing charges.
8

9 (b) Upon completion of the construction or acquisition referred
0 to in subdivision (a) of this section, any deficiency in the
1 amount theretofore paid or credited and the actual amount of
2 North Marin's portion thereof shall be paid by North Marin to the
3 Agency.
4

5 (c) All payments made by North Marin pursuant to subdivisions
6 (a) and (b) of this section shall be deposited in a separate
7 account from which the Agency will make disbursements only to
8 make payments that otherwise must be made by revenues received
9 from the North Marin Revenue Bonds Charge, or for the Agency's
0 expenses in constructing the remaining facilities, additional
1 facilities, and replacement facilities or in acquiring all or
2 part of the Potter Valley Project, up to the proportionate
3 amounts allocated to North Marin utilizing the ratios contained
4 in section 4.7. The balance of the account shall earn interest
5 at the Sonoma County Treasurer's pooled investment fund rate,
6 which interest income shall be credited to the account on June 30
7 of each year. Any surplus funds in the account shall be paid to
8 North Marin within 30 days of receipt of a written request
9 therefor.
0

1 **4.9 Payment of Remaining Facilities, Additional Facilities,**
2 **Replacement Facilities and Potter Valley Project Capital Costs**
3

4 (a) The capital costs of remaining facilities, additional
5 facilities, replacement facilities and Potter Valley Project,
6 except the portions thereof paid by North Marin pursuant to
7 section 4.8, shall be paid by the Agency with cash available
8 pursuant to sections 4.2, 4.10, 4.11 and 4.12, subdivision (b) of
9 section 4.15, and, if the Board of Directors of the Agency
0 decides to issue Revenue Bonds, with the proceeds from the sale

1 of Revenue Bonds. The Agency may sell Revenue Bonds to the
2 extent necessary to pay for said capital costs, to establish bond
3 reserves and to pay all expenses incurred in the issuance of such
4 bonds.
5

6 (b) From time to time the Agency shall determine the percentage
7 of the Revenue Bonds that are attributable to aqueduct
8 facilities, storage facilities, common facilities, and North
9 Marin's capital costs. In making these calculations, the Agency
10 shall not include in the portions of the Revenue Bonds that are
11 attributable to aqueduct facilities, storage facilities and
12 common facilities, the portions of the Revenue Bonds, if any,
13 that are attributable to North Marin's capital costs. The Agency
14 shall not include any capital costs for which North Marin paid
15 cash pursuant to section 4.8, or the costs of any major
16 replacement facilities financed pursuant to subdivisions (e) of
17 sections 4.3, 4.4, 4.5 and 4.6, in these calculations.
18

19 **4.10 Aqueduct Revenue Bonds Charges**

20 (a) Aqueduct Revenue Bonds Charges shall be annual charges per
21 acre foot set for each aqueduct as provided in subdivision (b) of
22 this section and shall be paid by all regular customers of the
23 Agency except North Marin for all water delivered from the
24 Transmission System except surplus water. For the purpose of
25 this section only, all water delivered to Santa Rosa shall be
26 deemed to be delivered from the Santa Rosa Aqueduct, all water
27 delivered to Rohnert Park, Cotati and Petaluma shall be deemed to
28 be delivered from the Petaluma Aqueduct, all water delivered to
29 Forestville shall be deemed to be delivered from the Forestville
30 Aqueduct, and all water delivered to Sonoma and Valley of the
31 Moon shall be deemed to be delivered from the Sonoma Aqueduct.
32

33 (b) The aggregate amount to be received by the Agency from the
34 various Aqueduct Revenue Bonds Charges for each fiscal year shall
35 be sufficient to produce water sale revenues to pay the Agency's
36 Revenue Bond obligations (after crediting any projected payments
37 to be made pursuant to subdivisions (e) of sections 4.3, 4.4, 4.5
38 and 4.6) for such fiscal year times the percentage for aqueduct
39 facilities determined pursuant to subdivision (b) of section 4.9,
40 and to produce additional revenues in amounts determined from
41 time to time by the Water Advisory Committee to pay the capital
42 costs of aqueduct facilities pursuant to subdivision (c) of this
43 section. The aggregate amount shall be allocated to the
44 respective aqueducts based on the following cost distribution
45 ratios applied to the estimated, or when known, actual capital
46 costs for the various aqueduct facilities:
47

48 **Facility**

49 **Ratio**

| | | | |
|---|---------------------------|----------------------|-----------|
| 1 | Intertie Aqueduct reach 1 | | |
| 2 | | | |
| 3 | | Santa Rosa Aqueduct | 30.0/59.2 |
| 4 | | Petaluma Aqueduct | 19.7/59.2 |
| 5 | | Sonoma Aqueduct | 8.0/59.2 |
| 5 | | Forestville Aqueduct | 1.5/59.2 |
| 7 | | | |
| 3 | | | |
| 9 | | | |
| 0 | Intertie Aqueduct reach 2 | | |
| 1 | | | |
| 2 | | Santa Rosa Aqueduct | 30.0/57.7 |
| 3 | | Petaluma Aqueduct | 19.7/57.7 |
| 4 | | Sonoma Aqueduct | 8.0/57.7 |
| 5 | | Forestville Aqueduct | -0- |
| 5 | | | |
| 7 | | | |

1 Aqueduct reach 3

| | | |
|---|----------------------|-----------|
| 3 | Santa Rosa Aqueduct | 20.0/47.7 |
| 4 | Petaluma Aqueduct | 19.7/47.7 |
| 5 | Sonoma Aqueduct | 8.0/47.7 |
| 6 | Forestville Aqueduct | -0- |

7
8 2nd pipeline, generally paralleling Intertie Aqueduct,
9 reach 1, reach 2 and reach 3a
0

| | | |
|---|----------------------|-----------|
| 1 | Santa Rosa Aqueduct | 6.6/55.8 |
| 2 | Petaluma Aqueduct | 20.9/55.8 |
| 3 | Sonoma Aqueduct | 6.8/55.8 |
| 4 | Forestville Aqueduct | -0- |

5 2nd pipeline, generally paralleling Intertie Aqueduct,
6 reach 3b and 3c
7

| | | |
|---|----------------------|-----------|
| 8 | Santa Rosa Aqueduct | -0- |
| 9 | Petaluma Aqueduct | 20.9/42.4 |
| 0 | Sonoma Aqueduct | -0- |
| 1 | Forestville Aqueduct | -0- |

2
3
4 2nd pipeline, generally paralleling Petaluma Aqueduct from its
5 junction with the Intertie Aqueduct to Kastania Reservoir
6

| | | |
|---|----------------------|-----------|
| 7 | Santa Rosa Aqueduct | -0- |
| 8 | Petaluma Aqueduct | 20.9/38.8 |
| 9 | Sonoma Aqueduct | -0- |
| 0 | Forestville Aqueduct | -0- |

1
2
3 2nd pipeline, generally paralleling Sonoma Aqueduct
4

| | | |
|---|----------------------|---------|
| 5 | Santa Rosa Aqueduct | -0- |
| 6 | Petaluma Aqueduct | -0- |
| 7 | Sonoma Aqueduct | 6.8/6.8 |
| 8 | Forestville Aqueduct | -0- |

9
0 (These ratios are determined with the allocations in section 4.7
1 of capital costs to North Marin, and with the following
2 allocations to common facilities:
3

4 2nd pipeline generally paralleling reaches 1, 2 and 3a of
5 the Intertie Aqueduct: 12.8/55.8
6

7 2nd pipeline generally paralleling reach 3b and 3c of the
8 Intertie Aqueduct: 12.8/42.4
9

0 2nd pipeline generally paralleling the Petaluma Aqueduct from its

1 junction with the Intertie Aqueduct to Kastania Reservoir:
2 12.8/38.8)
3

4 (c) All money received by the Agency in payment of Intertie
5 Aqueduct Revenue Bonds Charge shall be deposited and paid out as
6 set forth in Section 1.7 and subdivision (b) of section 4.1.
7 After making the payments required by section 1.7, Ordinance No.
8 1, and the Subordinated Bond Ordinance, remaining money received
9 from the Intertie Aqueduct Revenue Bonds Charge may be disbursed
0 from time to time to pay pursuant to subdivision (a) of section
1 4.9 the portions of the capital costs of the remaining
2 facilities, additional facilities and replacement facilities
3 which are also aqueduct facilities that are not allocated to
4 North Marin in section 4.7.
5

6 (d) If at the end of any fiscal year the balance in the Intertie
7 Aqueduct Revenue Bonds fund is insufficient to meet said Revenue
8 Bond obligations for the ensuing fiscal year attributed to the
9 Intertie Aqueduct, Agency will determine the deficits in the
0 payment received by it for deliveries from the Santa Rosa,
1 Petaluma, Sonoma and Forestville aqueducts respectively. Before
2 August 1 of the following fiscal year, additional charges for
3 water delivered in amounts equal to the deficits with respect to
4 the Santa Rosa and Forestville aqueducts shall be paid by Santa
5 Rosa and Forestville respectively. Additional charges for water
6 delivered in an amount equal to the deficit with respect to the
7 Sonoma Aqueduct shall be paid by Sonoma and Valley of the Moon in
8 the manner provided in subdivision (d) of section 4.5.
9 Additional charges for water delivered in an amount equal to the
0 deficit with respect to the Petaluma Aqueduct shall be paid by
1 Rohnert Park, Cotati and Petaluma in the manner provided in
2 subdivision (d) of section 4.6 excluding North Marin.
3

4 **4.11 Storage Facilities Revenue Bonds Charge**

5

6 (a) The Storage Facilities Revenue Bonds Charge shall be a
7 uniform annual charge per acre foot and shall be paid by all
8 regular customers of the Agency for all water delivered from the
9 Transmission System except surplus water, provided however, that
0 North Marin shall not be obligated to pay any Storage Facilities
1 Revenue Bonds Charge if North Marin maintains storage reservoirs
2 within its system with a total capacity equal to or greater than
3 one and one-half times the average daily volume of water
4 delivered by the Agency to North Marin during the previous July
5 with the highest water delivery to North Marin.
6

7 (b) The aggregate amount to be received by the Agency from the
8 Storage Facilities Revenue Bonds Charge for each fiscal year
9 shall be sufficient to produce water sale revenues to pay the
0 Agency's Revenue Bond obligations for such fiscal year (after

crediting any projected payments to be made pursuant to subdivisions (e) of sections 4.3, 4.4, 4.5 and 4.6) times the percentage for storage facilities determined pursuant to subdivision (b) of section 4.9, and to produce additional revenues in amounts determined from time to time by the Water Advisory Committee to pay the capital costs of storage facilities pursuant to subdivision (c) of this section.

(c) All money received by the Agency in payment of the Storage Facilities Revenue Bonds Charge shall be deposited and paid out as set forth in section 1.7, and subdivision (b) of section 4.1.

After making the payments from the storage facilities Revenue Bonds fund required by section 1.7, Ordinance No. 1, and the Subordinated Bond Ordinance, remaining money in said fund may be disbursed from time to time to pay capital costs of remaining facilities, additional facilities and replacement facilities that also are storage facilities, pursuant to section 4.9.

(d) If at the end of any fiscal year the balance in the storage facilities Revenue Bonds fund is insufficient to meet said Revenue Bond obligations for such fiscal year attributed to the storage facilities, each water contractor except North Marin will, before August 1, pay to the Agency an additional charge per acre foot for all water delivered to it during the fiscal year which additional charge when multiplied by all acre feet sold to regular customers except North Marin shall be equal to said deficit.

4.12 Common Facilities Revenue Bonds Charge

(a) The Common Facilities Revenue Bonds Charge shall be a uniform annual charge per acre foot and shall be paid by all regular customers of the Agency except North Marin for all water delivered from the Transmission System except surplus water.

(b) The aggregate amount to be received by the Agency from the Common Facilities Revenue Bonds Charge for each fiscal year shall be sufficient to produce water sale revenues to pay the Agency's Revenue Bond obligations for such fiscal year (after crediting any projected payments to be made pursuant to subdivisions (e) of sections 4.3, 4.4, 4.5 and 4.6) times the percentage for common facilities determined pursuant to subdivision (b) of section 4.9.

(c) All money received by the Agency in payment of the Common Facilities Revenue Bonds Charge shall be deposited and paid out as set forth in section 1.7 and subdivision (b) of section 4.1. After making the payments required by section 1.7, Ordinance No. 1, and the Subordinated Bond Ordinance, additional money received from the Common Facilities Revenue Bonds Charge may be disbursed from time to time pursuant to subdivision (a) of section 4.9 to

1 pay the portions of the capital costs of remaining facilities,
2 additional facilities, replacement facilities and the Potter
3 Valley Project that also are common facilities and that are not
4 allocated to North Marin in section 4.7, and to satisfy the
5 requirements of section 6.04 of Ordinance No. 1 if the amount of
6 money received from the charge established by section 4.2 is
7 insufficient in any fiscal year.

3
4 (d) If at the end of any fiscal year the balance in the common
5 facilities Revenue Bonds fund is insufficient to meet the
6 Agency's Revenue Bond obligations for such fiscal year on the
7 Revenue Bonds attributed to common facilities, each water
8 contractor except North Marin shall, before August 1, pay to the
9 Agency an additional charge per acre foot for water delivered to
10 it during the fiscal year, which additional charge when
11 multiplied by all acre feet sold to the water contractors shall
12 be equal to said deficit.

3 4 **4.13 North Marin Revenue Bonds Charge**

5 (a) The North Marin Revenue Bonds Charge shall be a uniform
6 annual charge per acre foot and shall be paid by North Marin for
7 all water delivered to it from the Transmission System except
8 surplus water.

9 (b) The aggregate amount to be received by the Agency from the
10 North Marin Revenue Bonds Charge for each fiscal year shall be
11 sufficient to produce water sale revenues to pay the Agency's
12 Revenue Bond obligations for such fiscal year (after crediting
13 any projected payments to be made pursuant to subdivisions (e) of
14 sections 4.3, 4.4, 4.5 and 4.6) times the percentage for North
15 Marin's capital costs determined pursuant to subdivision (b) of
16 section 4.9.

17 (c) All money received by the Agency in payment of North Marin
18 Revenue Bonds Charge shall be deposited and paid out as set forth
19 in section 1.7 and subdivision (b) of section 4.1. After making
20 any payments required by section 1.7, Ordinance No. 1, and the
21 Subordinated Bond Ordinance, additional money received from the
22 North Marin Revenue Bonds charge shall be deposited in the
23 separate account described in subdivision (c) of section 4.8.

24 (d) If at the end of any fiscal year the balance in the separate
25 fund described in subdivision (c) of section 4.8 is insufficient
26 to meet the portion of the Agency's Revenue Bond obligations for
27 such fiscal year on the Revenue Bonds attributed to North Marin's
28 capital costs, North Marin will, before August 1, pay to the
29 Agency an additional charge per acre foot for water delivered to
30 it during the fiscal year, which additional charge when
31 multiplied by all acre feet sold to North Marin shall be equal to

1 said deficit.

2
3 (e) If any money received pursuant to the Common Facilities
4 Revenue Bonds Charge is used pursuant to subdivision (c) of
5 section 4.12 to satisfy the requirements of section 6.04 of
6 Ordinance No. 1, then the North Marin Revenue Bonds Charge shall
7 be increased by the appropriate amount so that North Marin pays
8 its appropriate share of such requirements.

9
10
11 (f) If North Marin has not maintained storage reservoirs within
12 its system with at least the capacity required by subdivision (a)
13 of section 4.11, and if, as a result, the Agency constructs
14 additional storage, then the North Marin Revenue Bonds charge
15 shall be increased by an amount sufficient to pay for the capital
16 costs or Revenue Bonds costs of such additional storage.

17 **4.14 Power Revenues**

18 All power from the Warm Springs Hydroelectric Project and
19 the Potter Valley Project shall be applied to the operation of
20 the Transmission System or shall be sold, as the Agency shall
21 from time to time determine. All revenues arising from the
22 operation of these projects shall be treated the same as money
23 received from the Operation and Maintenance Charge and shall be
24 deposited and paid out as set forth in section 1.7 and
25 subdivision (b) of section 4.1.

26 **4.15 Payment for Surplus Water and Water Sold To Marin Municipal**

27 (a) The Agency will sell surplus water at a price per acre foot
28 of not less than 120% of the then current Operation and
29 Maintenance Charge. All revenue from the sale of surplus water
30 shall be treated the same as money received from the Operation
31 and Maintenance Charge and shall be deposited and paid out as set
32 forth in section 1.7 and subdivision (b) of section 4.1.

33 (b) Water delivered to Marin Municipal shall be sold at a per
34 acre foot price that shall not be less than the sum of the
35 Operation and Maintenance Charge determined pursuant to section
36 4.2, the Russian River Conservation and Russian River Projects
37 Charges determined pursuant to section 4.17, and a capital
38 charge. For the Third Amended Offpeak Water Supply Agreement
39 dated January 25, 1995, or any amendment to that agreement that
40 has been approved by the Water Advisory Committee, the capital
41 charge shall be the total of all charges paid to Agency by Marin
42 Municipal minus the sum of the Operation and Maintenance Charge
43 and the Russian River Conservation and Russian River Projects
44 Charges. For the Amended Agreement For The Sale of Water Between
45 the Sonoma County Water Agency and Marin Municipal Water District

dated January 25, 1996, or any amendment to that agreement that has been approved by the Water Advisory Committee, the capital charge shall be the charge established by paragraph b. of Section 10 of that agreement. Any subsequent agreement between the Agency and Marin Municipal for the sale of water to be transported through the Transmission System pursuant to Section 3.12 shall specify the capital charge that applies to this section of this agreement. All money received by the Agency from the Operation and Maintenance Charge on water sold to Marin Municipal shall be credited to the operation and maintenance fund. All money received by the Agency from the Russian River Conservation and Russian River Projects Charges on water sold to Marin Municipal shall be credited to the Russian River Projects Fund and shall be used only for the purposes set forth in subsection (aa) of Section 1.1. The balance of the money received by the Agency from water sold to Marin Municipal shall be deposited and paid out as set forth in Section 1.7, and subdivision (b) of Section 4.1. After making the payments required by Section 1.7, Ordinance No. 1 and the Subordinated Bond Ordinance, additional money received may be disbursed from time to time to pay the capital costs of storage facilities or common facilities authorized to be constructed in section 2.2, provided, however, that only the money received from \$31.50 per acre foot of the capital charge (which rate is based on the Agency's past and projected future capital investment in storage facilities) may be used to pay the capital costs of new storage facilities.

4.16 Minimum Payments by Other Agency Customers

Anything herein to the contrary notwithstanding, the Agency will not sell any water to be delivered through the Transmission System (other than surplus water) to any other agency customer at a total price per acre foot that is less than 120% of the highest price per acre foot then currently being paid by any water contractor. The respective components of said price shall be credited to the appropriate fund referred to in subdivision (a) of section 4.1 and the excess shall be credited to the aqueduct capital fund for the aqueduct from which service is taken.

4.17 Payment of Russian River Conservation Charge and Russian River Projects Charge by North Marin

In addition to the other charges provided for in this Part, North Marin shall pay the following additional per-acre-foot charges:

(a) A Russian River Conservation Charge shall be paid in lieu of the property taxes levied by the Agency on property in Sonoma County, to pay the capital, operation and maintenance costs

1 associated with the Warm Springs Dam Project. The Russian River
2 Conservation Charge shall be a charge per acre foot of water
3 delivered to North Marin hereunder, except surplus water. The
4 charge shall be determined annually on or before April 30
5 preceding each fiscal year and shall be payable by North Marin
6 during the ensuing fiscal year. The Russian River Conservation
7 Charge shall be determined by multiplying the tax rate levied by
8 the Agency in the then current fiscal year to pay the costs
9 associated with the Warm Springs Dam Project times the assessed
10 value of secured and unsecured property situated within Cotati,
11 Petaluma, Rohnert Park, Santa Rosa, Sonoma, Forestville and
12 Valley of the Moon and dividing the product by the total number
13 of acre feet of water delivered to Cotati, Petaluma, Rohnert
14 Park, Santa Rosa, Sonoma, Forestville and Valley of the Moon
15 pursuant to section 3.1 and 3.3 during the twelve month period
16 ending on March 31. All money received by the Agency from the
17 Russian River Conservation Charge on water sold to North Marin
18 shall be credited to the Russian River Projects Fund and shall be
19 used only for the purposes set forth in subsection (aa) of
20 section 1.1.

1
2 (b) A Russian River Projects Charge shall be paid in lieu of the
3 property taxes levied on property in Sonoma County and other
4 Agency general fund monies which are transferred to the Agency's
5 Russian River Projects Fund and expended for the purposes
6 enumerated in subsection (aa) of section 1.1. The Russian River
7 Projects Charge shall be effective on the first day of the first
8 month following the effective date of this Agreement and shall
9 thereafter be determined annually on or before April 30 preceding
10 each fiscal year and shall be payable by North Marin during the
11 ensuing fiscal year. The Russian River Projects Charge shall be
12 determined by dividing the total amount of Agency monies expended
13 from the Agency's Russian River Projects Fund in the preceding
14 ten fiscal years, exclusive of the funds contributed to the Fund
15 by North Marin and Marin Municipal Water District, and interest
16 earnings attributable to funds contributed by North Marin and
17 Marin Municipal Water District, by the sum of the total acre-feet
18 of water delivered by the Agency to Cotati, Petaluma, Rohnert
19 Park, Santa Rosa, Sonoma, Forestville and Valley of the Moon
20 pursuant to Sections 3.1 and 3.3 of this agreement during the
preceding ten fiscal years and multiplying the quotient by the
ratio that the assessed value of secured and unsecured property
situated within Cotati, Petaluma, Rohnert Park, Santa Rosa,
Sonoma, Forestville and Valley of the Moon bears to the assessed
value of all secured and unsecured property within Sonoma County,
provided, however, in no event shall the Russian River Projects
Charge exceed \$20.00 per acre-foot. The Agency shall keep proper
books, records and accounts in which complete and accurate
entries shall be made of all Agency general fund monies
transferred to the Agency's Russian River Projects Fund and all

1 expenditures made from the fund for the purposes set forth in
2 subsection (aa) of section 1.1. The Agency shall maintain a
3 separate account within the Russian River Projects Fund for
4 Russian River Projects Charges paid by North Marin and Marin
5 Municipal Water District. Monies expended from the Russian River
6 Projects Fund shall be deemed to have been expended from the
7 North Marin and Marin Municipal Water District account in the
8 proportion that the balance of that account bears to the total
9 Russian River Projects Fund balance at the end of the fiscal year
0 quarter preceding the expenditure. All money received by the
1 Agency from the Russian River Projects Charge on water sold to
2 North Marin shall be credited to the Russian River Projects Fund
3 and shall be used only for the purposes set forth in subsection
4 (aa) of section 1.1.
5
6

7 **4.18 Billing and Time of Payment**

8

9 Except as otherwise expressly provided herein, all charges
0 payable to the Agency shall be billed each month and paid within
1 30 days after receipt of bill. Notwithstanding any dispute
2 between the Agency and a water contractor, such water contractor
3 will pay all its bills when due and shall not withhold all or any
4 part of any payment pending the final resolution of such dispute.

5 If the resolution of the dispute results in a refund to the
6 water contractor, the Agency shall make such refund plus any
7 interest earned by investment of the disputed funds as promptly
8 as it is able to do so, consistent with its meeting its Revenue
9 Bond obligations.
0

1 **PART 5 - WATER ADVISORY COMMITTEE**

2 **5.1 Purpose**

3 (a) There is hereby created the Water Advisory Committee.

4
5 (b) The purpose of the Water Advisory Committee is to review all
6 proposals set forth by the Agency which involve a significant
7 capital outlay for the Transmission System or any other project
8 which would significantly change the level of service or add
9 significantly to the operations and maintenance expense of the
10 Transmission System or other expense to be borne by the water
11 contractors.

12 **5.2 Powers**

13 Except as provided herein to the contrary, the power of the
14 Water Advisory Committee is limited to that of collective
15 spokesperson for the water contractors and shall be advisory only
16 in nature. Nothing shall preclude a water contractor from
17 setting forth a view contrary to that of the majority of the
18 Committee. No action of the Committee limits or impairs any
19 right or power of any water contractor.

20 **5.3 Composition**

21 (a) The Water Advisory Committee shall be composed of one
22 representative selected by each water contractor. Each water
23 contractor's representative will be allocated a weighted vote
24 proportional to the average day any month water delivery limit
25 set forth in section 3.1(a) applicable to such water contractor.

26 An affirmative vote of said Committee shall require both of the
27 following: (1) the affirmative vote of more than fifty percent
28 (50%) of the total weighted votes as defined above; and (2) the
29 affirmative vote of at least five (5) representatives. If the
30 Water Advisory Committee does not affirmatively vote to approve
31 any matter before it for a decision, then the matter shall be
32 deemed not approved. The General Manager of the Marin Municipal
33 Water District, or his or her designated representative, may
34 attend and participate, debate, express opinions and present
35 information at meetings of the Water Advisory Committee but shall
36 not have a vote.

37 (b) Annually, on a date selected by the Water Advisory
38 Committee, the Committee shall elect one of its members to serve
39 as chairperson for the ensuing fiscal year. The chairperson may
40 serve any number of consecutive years provided that an election
41 is held each year. Furthermore, the chairperson can be removed
42 and replaced at any meeting called by five Committee members
43 provided all Committee members are notified in writing a minimum

1 of five working days prior to the meeting. Voting for
2 chairperson shall be as provided in subsection (a) of this
3 section.
4

5 (c) Commencing with the first fiscal year following the
6 effective date of this agreement, the Agency shall include in its
7 operating budget the amount of \$30,000 which the Agency shall
8 expend as the Water Advisory Committee directs for purposes
9 associated with the orderly implementation and operation of the
0 provisions of this agreement and other associated purposes deemed
1 appropriate by the Committee. The annual amount may be fixed at
2 a higher or lower amount in subsequent fiscal years as determined
3 by vote of the Committee pursuant to subsection (a) of this
4 section. The Water Advisory Committee shall decide which, if
5 any, consultant or consultants, firm or firms shall be hired to
6 carry out this work.
7

8 IN WITNESS WHEREOF, the parties have executed this
9 agreement on the date first above written.
0
1
2
3

4 SONOMA COUNTY WATER AGENCY
5
6
7

8 By: _____ Date: January 26, 2001
9 Randy D. Poole, General Manager/Chief Engineer
0

1 ATTEST:
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8 CITY OF COTATI
9
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8 By: _____ Date: September 30, 1999
9 Howard Berkemeier, Mayor
0

1 ATTEST:
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1

City Clerk

1 CITY OF PETALUMA

2
3
4 By: _____
5 E. Clark Thompson, Mayor
6

Date: January 24, 2001

7 ATTEST:

8
9
0
1 _____
2 City Clerk
3

4 CITY OF ROHNERT PARK

5
6
7
8 By: _____
9 James Reilly, Jr., Mayor
0

Date: August 16, 1999

1 ATTEST:

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4
5 _____
6 City Clerk
7

8 CITY OF SANTA ROSA

9
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1
2 By: _____
3 Janet Condron, Mayor
4

Date: August 23, 1999

5 ATTEST:

6
7
8
9 _____
0 City Clerk
1

2 CITY OF SONOMA

3
4
5 By: _____
6 Louis Ramponi, Mayor
7

Date: August 26, 1999

8 ATTEST:

1
2 _____
3 City Clerk

4 FORESTVILLE COUNTY WATER
5 DISTRICT

Date: July 23, 1999

7
8 By: _____
9 William Massey, President

0
1 ATTEST:

2
3 _____
4 Secretary

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8 NORTH MARIN WATER
9 DISTRICT

Date: September 2, 1999

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1
2
3 By: _____
4 Donald Brand, President

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6
7 ATTEST:

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9 _____
0 Secretary

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4 VALLEY OF THE MOON WATER
5 DISTRICT

Date: November 22, 1999

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7
8 By: _____
9 Edward Kenny, President

0
1 ATTEST:

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3 _____
4 Secretary

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